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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,371

01/18/2007

Gino Villata

1200.749

9467

7590

08/10/2009

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EXAMINER

CHAU, TERRY C

ART UNIT

PAPER NUMBER

3655

MAIL DATE

DELIVERY MODE

08/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/576,371

Applicant(s)

VILLATA ET AL.

Examiner

TERRY CHAU

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-32 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: machine translation of the DE19509356, English translation of the written opinion of the International Search Authority for PCT/FR04/50573.

DETAILED ACTION

Election/Restrictions

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species 1: Figures 5, 6, 7

Species 2: Figures 9

Species 3: Figure 10

Species 4: Figure 11

Species 5: Figures 12, 13

Species 6: Figures 14, 15

Species 7: Figures 16, 17

Species 8: Figure 18

Species 9: Figure 19

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are believed to correspond to the species listed above in the following manner:

Species 1: claims 1-4, 6-8, 12-18, and 31
Species 2: claims 1-4, 6, 8, 10-18, 21, and 30-31
Species 3: claims 1-4, 6, 8-12, 19-24, and 30-31
Species 4: claims 1-4, 5, 8-10, 22-24, and 30-31
Species 5: claims 1-6, 8-10, 22, 25, 30, and 31
Species 6: claims 1-4, 6, 8-10, 22, 25-27, 30 and 31
Species 7: claims 1-4, 6, 8-10, 22, 25, 26, 28, 30 and 31
Species 8: claims 1-4, 6, 8-10, 22, 25, 26, 28-30 and 31
Species 9: claims 1-4, 6, 8-10, 22, 25, 30-32

The following claim(s) are generic: 1-4, 6, 8, and 31

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

Lack of unity is apparent a posteriori as claim 1 may be rejected under 35 U.S.C. 102 (b) by DE 195 09 356 A (see machine translation of the specification and English translation of the written opinion of the International Search Authority for PCT/FR04/50573).

DE 195 09 356 discloses

Regarding claim 1:

Hydraulic control system (see figure 1) for a clutch for a motor vehicle, comprising an upstream sending cylinder (5) connected by a conduit (4, 10) to a downstream receiving cylinder (11), so as to form a hydraulic control circuit (4, 10), an assistance cylinder (1) that is interposed in the conduit (10), between the sending cylinder (5) and the receiving cylinder (11), and which comprises at least one assistance piston (6) that is mounted so as to slide axially in the body (2) of the assistance cylinder (1) between an upstream engagement position and a downstream disengagement position, so as to delimit an

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upstream hydraulic chamber (50) and a downstream hydraulic chamber (7) with variable volumes according to the axial position of the piston (6), the upstream chamber (50) being connected to the sending cylinder (5) by a portion of hydraulic circuit referred to the upstream circuit (4) and the downstream chamber (7) being connected to the receiving cylinder (11) by a portion of the hydraulic circuit referred to as the downstream circuit (10), each hydraulic circuit portion (4, 10) comprising a means (57) of releveling the volume of fluid connected to at least one fluid reservoir, and in that the assistance cylinder (1) comprises an assistance device (12) that applies an assistance force to the assistance piston (6) during the declutching phase.

As the independent claims does not avoid the prior art, and there appears to be no remaining link between all the claims dependent on claim 1, an objection of lack of unity a posteriori is raised (see MPEP 1850 II).

A telephone call was made to Matthew Stavish on 8/5/2009 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TERRY CHAU whose telephone number is (571)270-5926. The examiner can normally be reached on Monday-Friday 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (571)272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TERRY CHAU/
Examiner, Art Unit 3655

8/5/2009

/Rodney H. Bonck/
Primary Examiner, Art Unit 3655